

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 02-62
Table of Allotments,) RM-10397
FM Broadcast Stations.)
(De Funiak Springs and Valparaiso, Florida))

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: September 11, 2002

Released: September 27, 2002

By the Assistant Chief, Audio Division:

1. The Audio Division has before it the *Notice of Proposed Rule Making* ("Notice"), 17 FCC Rcd 5332 (2002), issued in response to a petition for rule making filed by Root Communications License Company, L.P. ("Petitioner"), licensee of Station WMXZ(FM), Channel 276C2, De Funiak Springs, Florida. Petitioner requests the reallocation of Channel 276C2 to Valparaiso, Florida, as that community's second local aural transmission service,¹ and the modification of Station WMXZ's license to specify Valparaiso as its community of license. Petitioner filed comments reaffirming its proposal and reiterating its intent to implement its proposal if the reallocation of Channel 276C2 to Valparaiso occurs. No other party filed comments or any other pleading in this proceeding. For the reasons stated below, we grant Petitioner's request to change its community of license to Valparaiso.

2. Petitioner filed its request to reallocate Channel 276C2 to Valparaiso, Florida, pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.²

3. We believe that the public interest would be served by reallocating Channel 276C2 from De Funiak Springs to Valparaiso because Valparaiso would receive its first local FM transmission service. The reallocation of Channel 276C2 to Valparaiso would not deprive De Funiak Springs of its sole local aural transmission outlet because De Funiak Springs would continue to be served by three local aural transmission services. Therefore, in accordance with the provisions of Section 1.420(i) of the Commission's Rules, we will modify the license of Station WMXZ to specify operation on Channel 276C2 at Valparaiso, Florida.

4. Channel 276C2 can be allotted to Valparaiso, Florida, in conformity with the technical requirements of the Commission's Rules, utilizing Petitioner's requested site at the coordinates of 30-30-53 North Latitude and 86-13-12 West Longitude.

¹ Petitioner asserts that Valparaiso-Niceville is the community of license for AM broadcast Station WFSH.

² See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective November 12, 2002, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

| <u>Community</u> | <u>Channel Number</u> |
|---------------------|-----------------------|
| De Funiak Springs | ----- |
| Valparaiso, Florida | 276C2 |

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Root Communications License Company, L.P., for Station WMXZ(FM), De Funiak Springs, Florida, IS MODIFIED to specify operation on Channel 276C2 at Valparaiso, Florida, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's Rules.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(l)(k) and (3)(m), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Root Communications License Company, L.P., licensee of Station WMXZ(FM), is required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning the above, contact R. Barthen Gorman, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau